

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

OLEN A. HENRY,

Plaintiff,

v.

SAN JOSE HEALTHCARE SYSTEM, LP  
d/b/a REGIONAL MEDICAL CENTER OF  
SAN JOSE,

Defendant.

Case No. 5:14-cv-02762 HRL

**ORDER DISMISSING CASE**

This case has been pending for nearly a year, with little apparent progress. In the nearly four months since plaintiff's counsel was permitted to withdraw, plaintiff has not appeared in pro se or through a new attorney. Defendant's written discovery requests (served nearly 8 months ago) remain unanswered, and plaintiff's deposition has had to be canceled twice. Defendant says that it has been having difficulty in moving the case forward because its numerous attempts to proceed with discovery and mediation have largely been ignored. The situation has already required the court to continue its previously set case management deadlines. Yet, this court is told that matters remain at a standstill.

On April 17, 2015, this court issued an order directing plaintiff to appear on May 5, 2015 and show cause why this case should not be dismissed for failure to prosecute. (Dkt. 32). In that order, plaintiff was warned that, if he failed to appear or if there was no appearance by an attorney

1 who has entered a formal appearance on his behalf, this matter would be dismissed without further  
2 briefing or hearing.<sup>1</sup> (Id.).

3 Defendant appeared for the show cause hearing. Plaintiff did not. Nor did any attorney  
4 make an appearance on his behalf.

5 Accordingly, this matter is dismissed without prejudice for failure to prosecute.  
6 Defendant's second motion for a further extension of case management deadlines is denied as  
7 moot. The clerk shall close the file.

8 Plaintiff's former attorneys at Burton Employment Law, who remain on this docket solely  
9 for forwarding purposes, shall file a proof of service of this order as to plaintiff.

10 SO ORDERED.

11 Dated: May 5, 2015

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14 HOWARD R. LLOYD  
15 UNITED STATES MAGISTRATE JUDGE  
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28 <sup>1</sup> Plaintiff's former counsel was permitted to withdraw subject to the condition that papers could  
continue to be served on them for forwarding purposes. They filed a proof of service showing that  
the order to show cause was mailed to plaintiff on April 21, 2015. (Dkt. 33).

5:14-cv-02762-HRL Notice has been electronically mailed to:

Allison Vasquez Saunders asaunders@fordharrison.com, mgarner@fordharrison.com

Angela S. Fontana afontana@fordharrison.com, asaunders@fordharrison.com,  
mgarner@fordharrison.com

Jocelyn Burton jburton@burtonemploymentlaw.com, jmoon@burtonemploymentlaw.com

Joel Moon joelmoon3@gmail.com, jmoon@burtonemploymentlaw.com